

BEFORE LINDA McCULLOCH, STATE SUPERINTENDENT OF PUBLIC INSTRUCTION,  
STATE OF MONTANA

\*\*\*\*\*

FRANCIS KOLCZAK	)	
	)	
Appellant,	)	OSPI 299-05
	)	
vs.	)	<b>ORDER DISMISSING APPEAL</b>
	)	
VIVIAN TAYLOR, Phillips County	)	
	)	
Superintendent of Schools, BOARD OF	)	
	)	
TRUSTEES OF DODSON SCHOOL	)	
	)	
DISTRICT	)	
	)	
Respondent.		

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Appellant filed a Notice of Appeal with this office on January 6, 2005. Appellant's appeal was filed because of a denial issued by Vivian Taylor, Phillips County Superintendent of Schools alleging a lack of jurisdiction. A Notice and Briefing Schedule was issued by this office on January 7, 2005 which provided that Appellant's initial brief was due February 7, 2005. Appellant has not filed his initial brief with this office nor has the school district been served with a copy of an initial brief as appears from Respondent's initial brief filed on March 8, 2005.

ARM 10.6.122 provides that "failure of any party to take any step other than the timely filing of a notice of appeal does not affect the validity of the appeal but is grounds

1 for such action as the state superintendent deems appropriate, which may include  
2 dismissal of the appeal."

3 The State Superintendent finds that Appellant has failed to file his initial brief in  
4 this action and therefore pursuant to ARM 10.6.122 Appellant's appeal is hereby  
5 dismissed based on failure to prosecute this action by filing its initial brief.  
6

7 DATED this 23rd day of March, 2005.

8 /s/ Linda McCulloch  
9 Linda McCulloch  
10 Superintendent of Public Instruction

11 **CERTIFICATE OF SERVICE**

12 THIS IS TO CERTIFY that on this 23rd day of March, 2005, I caused a true and exact  
13 copy of the foregoing ORDER DISMISSING APPEAL to be mailed, postage prepaid, to the  
14 following:

15 Allen Beck  
16 1211 5<sup>th</sup> Avenue South  
Lewistown, MT 59457

17 Vivian Taylor  
18 County Superintendent of Schools  
PO Box 138  
Malta, MT 59538

19 Michael Dahlem  
20 Attorney at Law  
21 215 Eddy Avenue  
Missoula, MT 59801

22 /s/ Catherine K. Warhank  
23 CATHERINE K. WARHANK  
24 Chief Legal Counsel  
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